UNITED STATES PATENT AND TRADEMARK OFFICE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _17 April 2009_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1 and 29-51_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1 and 19-51_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _04/21/2009_.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

DETAILED ACTION

Acknowledgements

1.   Claims 1, and 29-51 are remain pending and have been examined.

2.   This Office Action is responsive to the amendment filed on April 17, 2009.

Information Disclosure Statement

3.   The Information Disclosure Statement filed on 21 April 2009 has been considered. An

initialed copy of the Form 1449 is enclosed herewith.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5.   Claims 1, and 29-51 are rejected under 35 U.S.C. 102(e) as anticipated by Stockhammer

et al. (US Patent No. 6,799,726 B2) ("Stockhammer").

6.   <u>Referring to claim 1</u>, Stockhammer discloses the following:

   a) detecting a said biometric sample and a second biometric sample at a biometric sensor

("sensor 3") to create biometric sample data and second biometric sample data ("biometric data")

((see abstract, column 1, lines 13 through column 2, lines 67));

b) associating, in a database the biometric sample data ("biometric data") and the second

biometric sample data with a Radio Frequency (RF) device ("wristwatch 1") (see abstract,

column 4, lines 1-11, column 4, claim 6);

c) associating, in the database, the first biometric sample data ("biometric data") with a first

account having a first account value that is accessible via the RF device ("wristwatch 1") (see

abstract, column 4, lines 1-11, column 4, claim 6);

d) associating, in the database, the second storing said biometric sample data ("biometric

data") data with a second account having a second account value that is accessible via the RF

device ("wristwatch 1") (see abstract, column 2, lines 9-34, column 3, lines 35-45, column 3,

claim 1);

e) receiving a transaction request associated with the transaction biometric sample data

("biometric data") associated with said RF device ("wristwatch 1"), wherein the transaction

request comprises a transaction value and transaction biometric sample data ("biometric data") is

further associated with a transaction request (see column 1, lines 54-67, column 2, lines, 1-67);

f) comparing the transaction request when said transaction biometric sample data

("biometric data") to the first biometric sample data ("biometric data") and the second biometric

sample data (see abstract, column 2, lines 36-67); and

g) assessing the transaction value against the first account value in response to the

transaction biometric sample data ("biometric data") being associated with the first biometric

sample data (see abstract, column 2, lines 36-67).

Referring to claim 29, Stockhammer further discloses assessing the transaction value against

the second account value in response to the transaction biometric sample data being associated

with the second biometric sample data (see abstract, column 1, lines 13 through column 2, lines 67).

7.   Referring to claim 30, Stockhammer further discloses wherein the assessing the transaction value against the first account value comprises automatically assessing the transaction value against the first account value without a transaction device user indicating that the transaction value should be assessed against the first account value other than by proffering a transaction biometric sample (see abstract, column 1, lines 1-24, 55-67, column 2, lines 1-24, column 3, lines 35-45, column 3, claim 1, column 4, claim 6).

8.   Referring to claim 31, Stockhammer further discloses associating the first biometric sample data with a third account having a third account value (see abstract, column 1, lines 1-24, 55-67, column 2, lines 1-24, column 3, lines 35-45, column 3, claim 1, column 4, claim 6).

9.   Referring to claim 32, Stockhammer further discloses assessing the transaction value against the third account value in response to the transaction value being greater that the first account value (see abstract, column 1, lines 13 through column 2, lines 67).

10.   Referring to claim 33, Stockhammer further discloses associating the first biometric sample data with a first set of account rules and assessing the transaction value against at least one of the first account value or the third account value in accordance with the first set of account rules(see abstract, column 1, lines 13 through column 2, lines 67).

11.   <u>Referring to claim 34</u>, Stockhammer further discloses assessing the transaction value

against the first account value in response to a first account condition being met; and assessing

the transaction value against the third account value in response to a third account condition

being met, wherein the first set of account rules includes the first account condition and the third

account condition (see abstract, column 1, lines 13 through column 2, lines 67).

12.   <u>Referring to claim 35</u>, Stockhammer further discloses assessing the transaction value

against the first account value in response to the transaction request qualifying for loyalty points

and in response to the transaction value being less than a maximum value (see abstract, column

1, lines 13 through column 2, lines 67).

13.   <u>Referring to claim 36</u>, Stockhammer further discloses assessing the transaction value

against the third account value in response to the transaction request not qualifying for airline

miles and in response to the transaction value being greater than a minimum value (see abstract,

column 1, lines 13 through column 2, lines 67).

14.   <u>Referring to claim 37</u>, Stockhammer further discloses wherein the first set of account

rules is applied to the transaction request in response to the transaction biometric sample data

being associated with the first biometric sample data (see abstract, column 1, lines 13 through

column 2, lines 67).

15.   <u>Referring to claim 38</u>, Stockhammer further discloses associating the second biometric

sample data with a fourth account having a fourth account value; and associating the second

biometric sample data with a second set of account rules (see abstract, column 1, lines 13

through column 2, lines 67).

16.   <u>Referring to claim 39</u>, Stockhammer further discloses wherein the second set of account

rules is applied to the transaction request in response to the transaction biometric sample data

being associated with the second biometric sample data (see abstract, column 1, lines 13 through

column 2, lines 67).

17.   <u>Referring to claim 40</u>, Stockhammer further discloses automatically applying the second

set of account rules in response to the transaction biometric sample data being associated with

the second biometric sample data (see abstract, column 1, lines 13 through column 2, lines 67).

18.   <u>Referring to claim 41</u>, Stockhammer further discloses wherein the first biometric sample

data is associated with a first fingerprint of a first digit, and wherein the second biometric sample

data is associated with a second fingerprint of a second digit (see abstract, column 1, lines 13

through column 2, lines 67).

19.   <u>Referring to claim 42</u>, Stockhammer further discloses wherein the first account is a

primary account associated with the first biometric sample data, and wherein the third account is

a secondary account associated with the first biometric sample data (see abstract, column 1, lines 13 through column 2, lines 67).

20.   Referring to claim 43, Stockhammer further discloses wherein the second account is a primary account associated with the second biometric sample data, and wherein the fourth account is a secondary account associated with the second biometric sample data (see abstract, column 1, lines 13 through column 2, lines 67).

21.   Referring to claim 44, Stockhammer further discloses wherein the first account, the second account, the third account and the fourth account individually comprise at least one of a credit account, a debit account, a prepaid account, a loyalty account, a rewards account, or an airline miles account (see abstract, column 1, lines 13 through column 2, lines 67).

22.   Referring to claim 45, Stockhammer further discloses wherein the database is associated with at least one of an issuer or an authorized sample receiver (see abstract, column 1, lines 13 through column 2, lines 67).

23.   Referring to claim 46, Stockhammer further discloses wherein the biometric sensor comprises at least one of a retinal scan sensor, an iris scan sensor, a fingerprint sensor, a hand print sensor, a hand geometry sensor, a voice print sensor, a vascular sensor, a facial sensor, an ear sensor, a signature sensor, a keystroke sensor, an olfactory sensor, an auditory emissions sensor, or a DNA sensor (see abstract, column 1, lines 13 through column 2, lines 67).

24.   Referring to claim 47, Stockhammer further discloses wherein the first biometric sample

and the second biometric sample individually comprise a biometric sample characteristic

comprising at least one of blood flow, correctly aligned ridges, pressure, motion, body heat,

ridge endings, bifurcation, lakes, enclosures, short ridges, dots, spurs, crossovers, pore size, pore

location, loops, whorls, or arches (see abstract, column 1, lines 13 through column 2, lines 67).

25.   Referring to claim 48, Stockhammer discloses the following:

    a) a biometric sensor configured to detect a first biometric sample and a second biometric

sample to facilitate creating first biometric sample data and second biometric sample data (see

abstract, column 1, lines 13 through column 2, lines 67);

    b) a database configured for storing the first biometric sample data and the second biometric

sample data and associating the first biometric sample data and the second biometric sample data

with a Radio Frequency (RF) device, wherein the first biometric sample data is associated with a

first account having a first account value that is accessible via the RF device, and wherein the

second biometric sample data is associated with a second account having a second account value

that is accessible via the RF device (see abstract, column 1, lines 13 through column 2, lines 67);

    c) a communications device configured to receive transaction biometric sample data

associated with the RF device, wherein a transaction request from the RF device comprises the

transaction biometric sample data and a transaction value (see abstract, column 1, lines 13

through column 2, lines 67); and

d) a protocol/sequence controller configured to compare the transaction biometric sample data to the first biometric sample data and the second biometric sample data, wherein the transaction value is assessed against the first account value in response to the transaction biometric sample data being associated with the first biometric sample data (see abstract, column 1, lines 13 through column 2, lines 67).

26.   Referring to claim 49, Stockhammer discloses the following:

a) a database configured for storing first account information associated with a Radio Frequency (RF) device and second account information associated with the RF device, wherein the first account information comprises a first account value that is accessible via the RF device, wherein the second account information comprises a second account value that is accessible via the RF device, wherein the first account information is associated with first biometric sample data, and wherein the second account information is associated with second biometric sample data (see abstract, column 1, lines 13 through column 2, lines 67);

b) a communications device configured to receive a transaction request associated with the RF device, wherein the transaction request comprises transaction biometric sample data and a transaction value (see abstract, column 1, lines 13 through column 2, lines 67); and

c) a payment server configured to assess the transaction value against the first account value in response to the transaction biometric sample data being associated with the first biometric sample data, wherein the first biometric sample data and the second biometric sample data are configured to be compared to the transaction biometric sample data (see abstract, column 1, lines 13 through column 2, lines 67).

27.   Referring to claim 50, Stockhammer the discloses the following:

    a) a biometric sensor configured to detect a biometric sample to facilitate creating

transaction biometric sample data, wherein the RF payment device is associated with a first

account and a second account, wherein the first account has a first account value and the second

account has a second account value, and wherein the first account is associated with first

biometric sample data and the second account is associated with second biometric sample data

(see abstract, column 1, lines 13 through column 2, lines 67);

    b) a communications device configured to transmit a transaction request, wherein the

transaction request comprises a transaction value and the transaction biometric sample data,

wherein the first biometric sample data and the second biometric sample data are configured to

be compared to the transaction biometric sample data, and wherein the transaction value is

configured to be assessed against the first account value in response to the transaction biometric

sample data being associated with the first biometric sample data (see abstract, column 1, lines

13 through column 2, lines 67).

28.   Referring to claim 51, Stockhammer discloses the following:

    a) detecting a first biometric sample and a second biometric sample at a biometric sensor to

create first biometric sample data and second biometric sample data (see abstract, column 1, lines

13 through column 2, lines 67);

   b)   associating, in a database, the first biometric sample data and the second biometric

sample data with a Radio Frequency (RF) device (see abstract, column 4, lines 1-11, column 4,

claim 6);

   c)   associating, in the database, the first biometric sample data with a first account having a

first account value that is accessible via the RF device (see abstract, column 4, lines 1-11,

column 4, claim 6);

   d)   associating, in the database, the second biometric sample data with a second account

having a second account value that is accessible via the RF device (see abstract, column 1, lines

13 through column 2, lines 67);

   e)   receiving a transaction request associated with the RF device, wherein the transaction

request comprises a transaction value and transaction biometric sample data (see abstract,

column 1, lines 13 through column 2, lines 67);

   f)   comparing the transaction biometric sample data to the first biometric sample data and

the second biometric sample data (see abstract, column 1, lines 13 through column 2, lines 67);

assessing the transaction value against the first account value in response to the transaction

biometric sample data being associated with the first biometric sample data (see abstract, column

1, lines 13 through column 2, lines 67);

   g)   associating the first biometric sample data with a third account having a third account

value (see abstract, column 4, lines 1-11, column 4, claim 6);

   h)   associating the first biometric sample data with a first set of account rules and assessing

the transaction value against at least one of the first account value or the third account value in

accordance with the first set of account rules (see abstract, column 1, lines 13 through column 2, lines 67);

i) assessing the transaction value against the first account value in response to a first account condition being met (see abstract, column 4, lines 1-11, column 4, claim 6); and

j) assessing the transaction value against the third account value in response to a third account condition being met, wherein the first set of account rules includes the first account condition and the third account condition (see abstract, column 1, lines 13 through column 2, lines 67).

Response to Arguments

29.   Applicant's arguments filed on April 17, 2009 have been fully considered but they are not persuasive.

30.   As per claims 1, and 29-51, Applicant argues "Stockhammer does not disclose detecting a said biometric sample and a second biometric sample at a biometric sensor to create biometric sample data and second biometric sample data; associating, in a database the biometric sample data and the second biometric sample data with a Radio Frequency (RF) device; associating, in the database, the first biometric sample data with a first account having a first account value that is accessible via the RF device; associating, in the database, the second storing said biometric sample data with a second account having a second account value that is accessible via the RF device; receiving a transaction request associated with the transaction biometric sample data associated with said RF device, wherein the transaction request comprises a transaction value and transaction biometric sample data is further associated with a transaction request; comparing

the transaction request when said transaction biometric sample data to the first biometric sample

data and the second biometric sample data: and assessing the transaction value against the first

account value in response to the transaction biometric sample data being associated with the first

biometric sample data (response pages 7-9)". Stockhammer teaches detecting a said biometric

sample and a second biometric sample at a biometric sensor to create biometric sample data and

second biometric sample data (see abstract, column 1, lines 1-24, 55-67, column 2, lines 1-24,

column 3, lines 35-45, column 3, claim 1, column 4, claim 6); associating, in a database the

biometric sample data and the second biometric sample data with a Radio Frequency (RF) device

(see abstract, column 4, lines 1-11, column 4, claim 6); associating, in the database, the first

biometric sample data with a first account having a first account value that is accessible via the

RF device (see abstract, column 4, lines 1-11, column 4, claim 6); associating, in the database,

the second storing said biometric sample data with a second account having a second account

value that is accessible via the RF device (see abstract, column 2, lines 9-34, column 3, lines 35-

45, column 3, claim 1); receiving a transaction request associated with the transaction biometric

sample data associated with said RF device, wherein the transaction request comprises a

transaction value and transaction biometric sample data is further associated with a transaction

request (see column 1, lines 54-67, column 2, lines, 1-67); comparing the transaction request

when said transaction biometric sample data ("biometric data") to the first biometric sample data

("biometric data") and the second biometric sample data (see abstract, column 2, lines 36-67);

and assessing the transaction value against the first account value in response to the transaction

biometric sample data ("biometric data") being associated with the first biometric sample data

(see abstract, column 2, lines 36-67).

Conclusion

31.   THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

32.   A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR

1.136(a) will be calculated from the mailing date of the advisory action. In no event, however,

will the statutory period for reply expire later than SIX MONTHS from the mailing date of this

final action.

33.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Shahid Kamal whose telephone number is (571) 270-3272. The

examiner can normally be reached on MONDAY through THURSDAY between the hours of

8:30 AM and 7 PM.

34.   If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Andrew J. Fischer can be reached on (571) 272-6779. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300 for Regular/After

Final Actions and 571-273-6714 for Non-Official/Draft.

35.   Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov.

36.   Should you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO

Customer Service Representative or access to the automated information system, call 800-786-

9199 (IN USA OR CANADA) or 571-272-1000.

SK
July 19, 2009

/EVENS J. AUGUSTIN/

Primary Examiner, Art Unit 3621